

CR 14 00243

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

THE UNITED STATES OF AMERICA

VS.

ROBERT W. SAUNDERS

INDICTMENT

Counts One - Four: 18 U.S.C. § 1030(a)(5)(A) – Intentional Damage to a Protected Computer

Count Five: 18 U.S.C. § 1030(a)(2)(C) – Obtaining Information from a Protected Computer Without Authorization

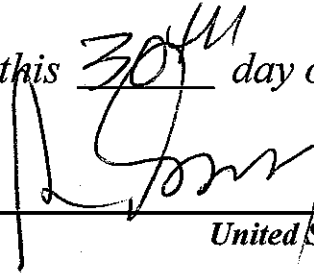
A true bill.



Foreperson

Filed in open court this  
A.D. 2014

30<sup>th</sup> day of April



United States Magistrate Judge

Bail. \$ No Bail Arrest Warrant

E-filing

MELINDA HAAG (CABN 132612)  
United States Attorney

**FILED**  
APR 30 2014  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

LHK

SAN JOSE DIVISION

HRL

UNITED STATES OF AMERICA,

v.

ROBERT W. SAUNDERS,

Defendant.

**CR14 00243**

VIOLATIONS: 18 U.S.C. § 1030(a)(2)(C) —  
Obtaining Information from a Protected Computer  
Without Authorization; 18 U.S.C. § 1030(a)(5)(A)  
— Intentional Damage to a Protected Computer; 18  
U.S.C. § 982(a)(2)(B) — Criminal Forfeiture  
Allegation; 18 U.S.C. §§ 1030(i) and (j) — Criminal  
Forfeiture Allegation.

SAN JOSE VENUE

INDICTMENT

The Grand Jury charges:

INTRODUCTORY ALLEGATIONS

At all times relevant to this indictment:

1. NetSuite was a publicly traded company based in San Mateo, CA. NetSuite provided integrated business management solutions over a web-based architecture. Netsuite's computer network was used in and affecting interstate and foreign commerce and communication, and constituted a "protected computer" pursuant to 18 U.S.C. § 1030(e)(2)(B).

2. Sqlmap was an open source penetration testing tool that automated the process of detecting and exploiting vulnerabilities on a web page. An SQL injection was a technique used to obtain user account

names and passwords from a database.

INTENTIONAL DAMAGE OF PROTECTED COMPUTER

3. Between May 2012 and September 2012, the defendant intentionally and without authorization accessed NetSuite's computer network to extract NetSuite's customer data.

4. Using the sqlmap tool, the defendant successfully exfiltrated approximately 15,000 email addresses and associated encrypted passwords from NetSuite's computer server.

COUNTS ONE THROUGH FOUR: (18 U.S.C. § 1030(a)(5)(A) — Intentional Damage to a Protected Computer)

5. Paragraphs 1 through 4 are re-alleged and incorporated as if fully set forth here.

6. On or about the dates set forth in the separate counts below, in the Northern District of California and elsewhere, the defendant,

ROBERT W. SAUNDERS,

knowingly caused the transmission of a program, information, code, and command, and, as a result of such conduct, intentionally caused damage without authorization to protected computers of NetSuite, and caused loss to 1 or more persons during a 1-year period affecting protected computers aggregating at least \$5,000 in value, as follows:

Count	Date
1	July 26, 2012
2	August 21, 2012
3	August 28, 2012
4	August 31, 2012

All in violation of Title 18, United States Code, Section 1030(a)(5)(A).

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1 COUNT FIVE: (18 U.S.C. § 1030(a)(2)(C) — Obtaining Information from a Protected Computer  
 2 Without Authorization)

3 7. Paragraphs 1 through 4 are re-alleged and incorporated as if fully set forth here.

4 8. On or about August 31, 2012, in the Northern District of California and elsewhere, the  
 5 defendant,

6 ROBERT W. SAUNDERS,

7 intentionally accessed a computer without authorization, and obtained information from a computer that  
 8 was used in or affected interstate and foreign commerce and communication, and the offense was  
 9 committed for purposes of commercial advantage and private financial gain, that is, the defendant  
 10 accessed Netsuite's computers and exfiltrated approximately 15,000 email addresses and associated  
 11 encrypted passwords.

12 All in violation of Title 18, United States Code, Sections 1030(a)(2)(C) and (c)(2)(B)(i).

13 FIRST CRIMINAL FORFEITURE ALLEGATION: (18 U.S.C. § 982(a)(2)(B))

14 9. The allegations contained in this Indictment are hereby realleged and incorporated  
 15 by reference for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Section  
 16 982(a)(2)(B) .

17 10. Upon conviction of any of the offenses set forth in Counts One through Five of this Indictment,  
 18 defendant,

19 ROBERT W. SAUNDERS,

20 shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section  
 21 982(a)(2)(B), any property constituting, or derived from, proceeds obtained, directly or indirectly, as a  
 22 result of such violation. If any of the property described above, as a result of any act or omission of the  
 23 defendant:

- 24 a. cannot be located upon the exercise of due diligence;
- 25 b. has been transferred or sold to, or deposited with, a third party;
- 26 c. has been placed beyond the jurisdiction of the court;
- 27 d. has been substantially diminished in value; or
- 28 e. has been commingled with other property which cannot be divided without

1 difficulty, the United States of America shall be entitled to forfeiture of substitute property  
 2 pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United  
 3 States Code, Section 982(b)(1), and Title 28, United States Code, Section 2461(c).

4 All pursuant to Title 18, United States Code, Section 982(a)(2)(B).

5 SECOND CRIMINAL FORFEITURE ALLEGATION: (18 U.S.C. §§ 1030(i) and (j))

6 11. The factual allegations contained in Counts One Through Five are hereby realleged for the  
 7 purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 1030(i) and (j).

8 12. Upon conviction of the offenses in violation of Title 18, United States Code, Section  
 9 1030(a)(5) set forth in Counts One Through Five of this Indictment, the defendant,

10 ROBERT W. SAUNDERS,

11 shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 1030(i)  
 12 and (j), any personal property used or intended to be used to commit or to facilitate the commission of  
 13 said violation or a conspiracy to violate said provision, and any property, real or personal, which  
 14 constitutes or is derived from proceeds traceable to the offenses, including but not limited to, a sum of  
 15 money equal to the total amount of proceeds defendant obtained or derived, directly or indirectly, from  
 16 the violation.

17 13. If any of the property described above, as a result of any act or omission  
 18 of the defendant:

- 19 a. cannot be located upon the exercise of due diligence;
- 20 b. has been transferred or sold to, or deposited with, a third party;
- 21 c. has been placed beyond the jurisdiction of the court;
- 22 d. has been substantially diminished in value; or
- 23 e. has been commingled with other property which cannot be divided without

24 difficulty,

25 the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21,

26 ///

1 United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 1030(i)(2).

2 All pursuant to Title 18 United States Code, Section 1030.

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4 DATED:

A TRUE BILL.

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FOREPERSON

MELINDA HAAG  
United States Attorney

MATTHEW A. PARRELLA  
Chief, Computer Hacking/Intellectual Property Unit

(Approved as to form: MPP)  
AUSA PARRELLA

**DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT**
 BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT  
☐ SUPERSEDING
**OFFENSE CHARGED**
 COUNTS ONE THROUGH FOUR: 18 USC 1030(a)(5)(A) -  
 Intentional Damage to a Protected Computer  
 COUNT FIVE: 18 USC 1030(a)(2)(C) - Obtaining Information  
 from a Protected Computer Without Authorization

- ☐
- Petty
- 
- ☐
- Minor
- 
- ☐
- Misdemeanor
- 
- ☒
- Felony

PENALTY: See Attachment A

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

**DEFENDANT - U.S.**

▶ ROBERT W. SAUNDERS

DISTRICT COURT NUMBER

**CR 14 00243 LHK****PROCEEDING**

Name of Complainant Agency, or Person (&amp; Title, if any)

Federal Bureau of Investigation

☐ person is awaiting trial in another Federal or State Court,  
 give name of court

☐ this person/proceeding is transferred from another district  
 per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of  
 charges previously dismissed  
 which were dismissed on motion  
 of:

☐ U.S. ATTORNEY ☐ DEFENSE
SHOW  
DOCKET NO.
☐ this prosecution relates to a  
 pending case involving this same  
 defendant
MAGISTRATE  
CASE NO.
☐ prior proceedings or appearance(s)  
 before U.S. Magistrate regarding this  
 defendant were recorded under

Name and Office of Person

Furnishing Information on this form Melinda Haag

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S.

Attorney (if assigned) Matthew A. Parrella

**DEFENDANT****HRL****IS NOT IN CUSTODY**

- 1)
- ☒
- Has not been arrested, pending outcome this proceeding.
- 
- If not detained give date any prior
- 
- summons was served on above charges ▶

2) ☐ Is a Fugitive3) ☐ Is on Bail or Release from (show District)**IS IN CUSTODY**

- 4)
- ☐
- On this charge
- 
- 5)
- ☐
- On another conviction
- 
- 6)
- ☐
- Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

 Has detainer ☐ Yes  
 been filed? ☐ No

 If "Yes"  
 give date  
 filed
**DATE OF  
ARREST**

Month/Day/Year

Or... if Arresting Agency &amp; Warrant were not

**DATE TRANSFERRED  
TO U.S. CUSTODY**

Month/Day/Year

☐ This report amends AO 257 previously submitted**ADDITIONAL INFORMATION OR COMMENTS****PROCESS:**
☐ SUMMONS ☐ NO PROCESS\* ☒ WARRANT

Bail Amount: None

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

 \* Where defendant previously apprehended on complaint, no new summons or  
 warrant needed, since Magistrate has scheduled arraignment

Date/Time:

Before Judge:

Comments:

Attachment A  
Maximum Penalties for  
U.S. v. ROBERT W. SAUNDERS

COUNTS ONE THROUGH FOUR: 18 U.S.C. 1030(a)(5)(A) - Intentional Damage to a Protected Computer (pursuant to § 1030(c)(4)(B)(i))

Maximum Sentence: 10 years  
Maximum Fine: \$250,000  
Special Assessment: \$100  
Maximum Supervised Release: 3 years

COUNT FIVE: 18 USC 1030(a)(2)(C) - Obtaining Information from a Protected Computer Without Authorization (pursuant to § 1030(c)(2)(B)(i))

Maximum Sentence: 5 years  
Maximum Fine: \$250,000  
Special Assessment: \$100  
Maximum Supervised Release: 3 years